

REMARKS

Claims 23 and 25 have been canceled herein. Hence, claims 1, 4-16, 18-22, 26 and 28 are currently pending. Applicants respectfully request reconsideration of the captioned application in view of the forgoing amendment and the following remarks.

Claim Rejections – 35 USC § 102

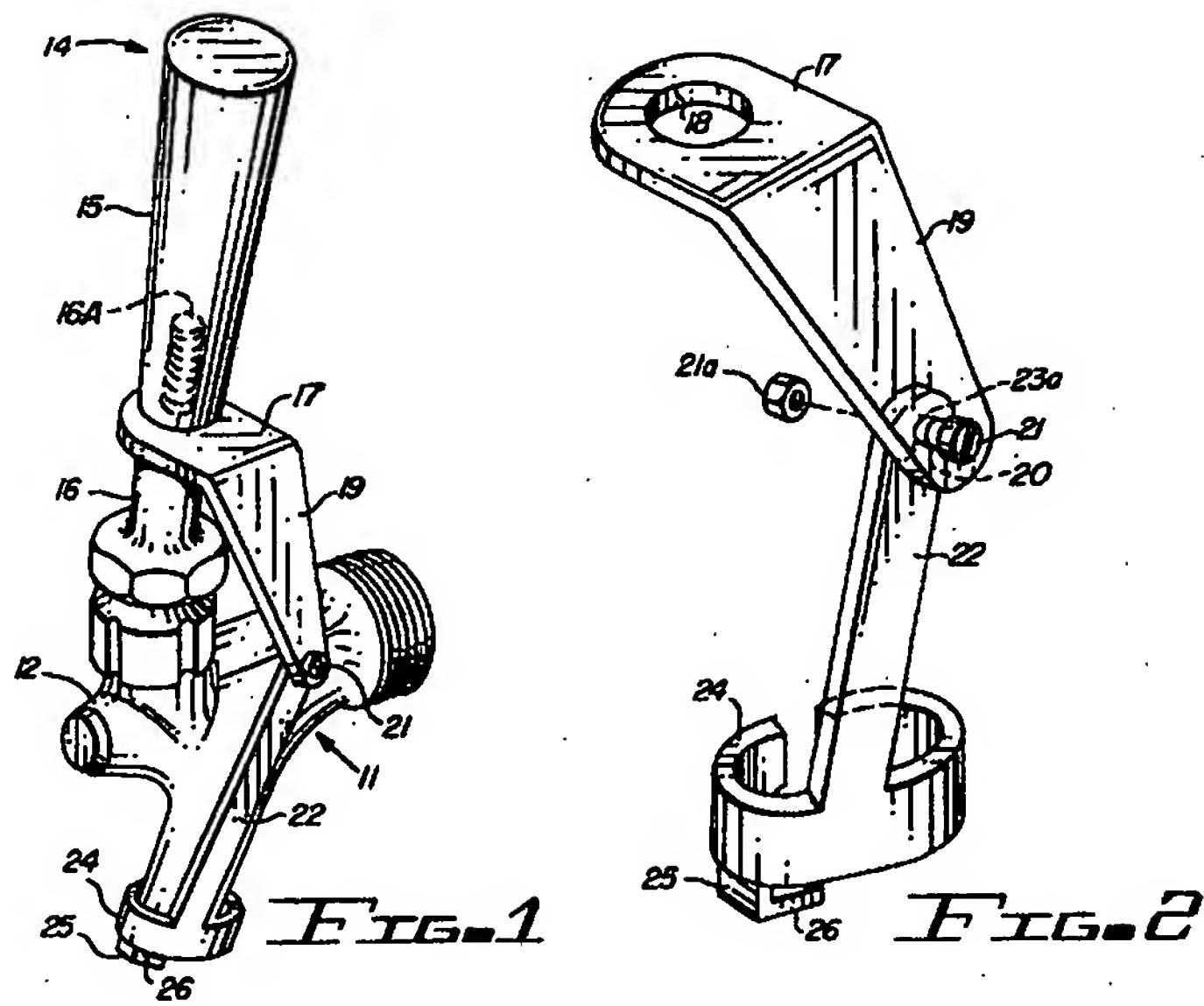
Sections 1-2 of the office action rejected claims 23 and 25 under 35 USC 102(b) as allegedly being anticipated by U.S. Patent 5,487,493 to McNabb (“McNabb”). Claims 23 and 25 have been canceled herein, rendering this rejection moot.

Claim Rejections – 35 USC § 103

The office action rejected claims 1, 4-14, 16, 22, 26 and 28 under 35 USC 103(a) as allegedly being unpatentable over U.S. Patent 5,487,493 to McNabb (“McNabb”) in view of U.S. Patent 5,487,493 to Numbers (“Numbers”). Applicant respectfully traverses this rejection.

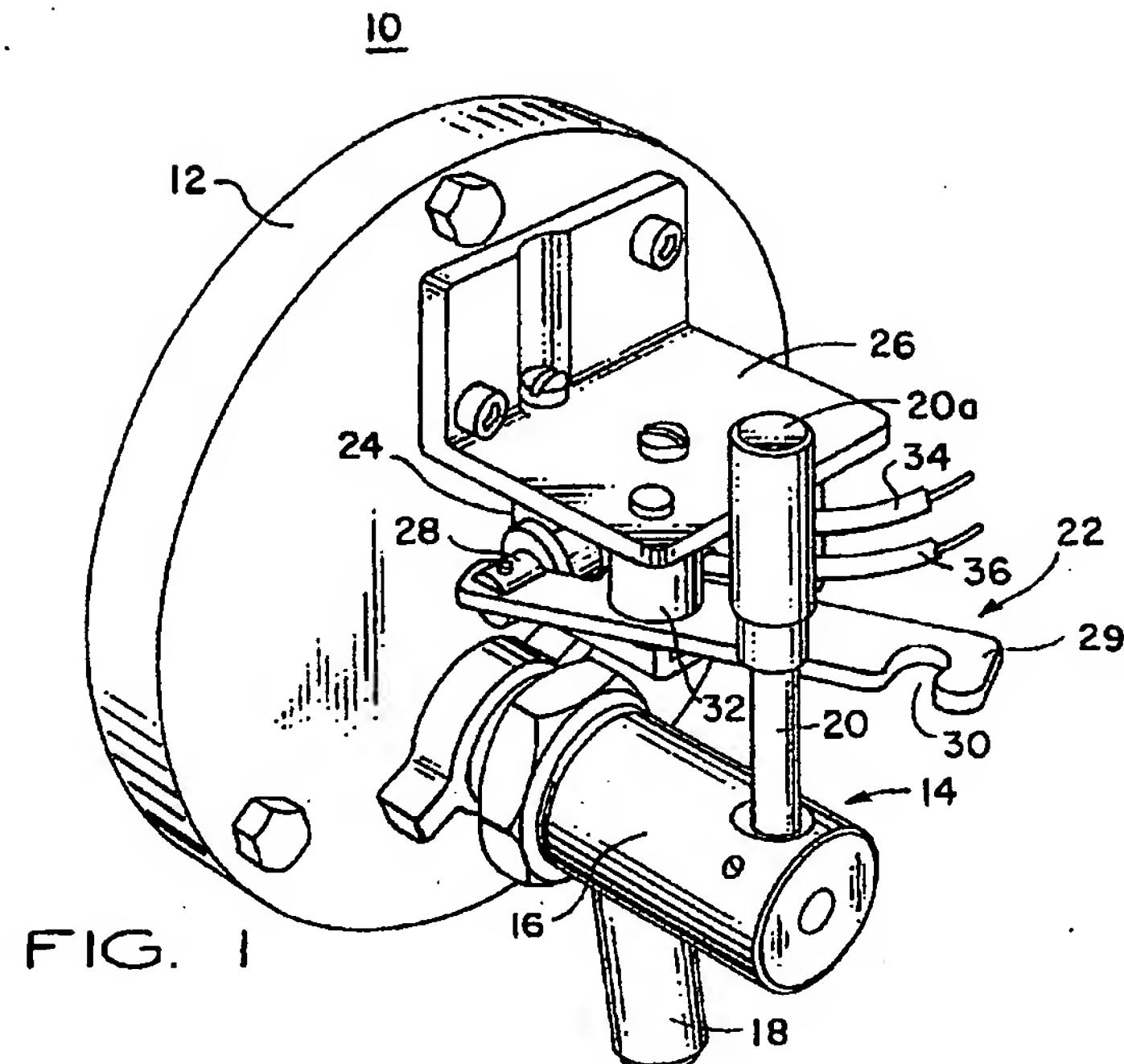
Claims 1 and 16 each include a locking member defining a spout opening therethrough for receiving a spout such that the locking member is *rotatable* about the spout.” Similarly, the method of claim 28 includes “inserting a spout of the faucet through a spout opening in a locking member such that the locking member is *rotatable* about the spout.”

The office action admits that McNabb “does not disclose a locking member defining a spout opening therethrough....” The office action then goes on to state that it would have been obvious to modify McNabb by “adding an extension from the lever handle and around the spout opening in order to prevent flow of beverage unless and until a drinking glass is placed under the faucet.” The office action referenced Figures 1 and 2 of Numbers, which are reproduced below:



The office action states, "Numbers discloses a locking member (fig 2) defining a spout opening (24), the spout opening (24) receiving the spout as seen in fig 1."

First, MPEP 2143.01 notes that, when modifying teachings of prior art references in a rejection under 35 USC 103, the proposed modification cannot change the principle of operation of a reference. Figure 1 of McNabb is reproduced below.



Regarding the operation of the securing device, col. 4 ll. 20-30 of McNabb disclose,

"An electrically activatable solenoid 24 is mounted with tank 12 by means of an L-shaped mounting bracket 26. Solenoid 24 has a movable member 28 coupled to an elongated latch member 29 adjacent one end of latch member 29. Latch member 29 has a notch 30 adjacent an opposite end of latch member 29 from moveable member 28. Pivot mounting member 32 is carried on mounting bracket 26 for mounting latch member 29 for pivotal movement about a vertical axis. Electric wires 34 and 36 connect solenoid 24 to an electrical power source (not shown)."

Thus, the latch member 29 is operated by the movable member 28 of the solenoid 24 to secure the lever 20. The abstract of McNabb notes that the latch member is used to inhibit dispensing when the apparatus is in a defrost cycle. Locking the lever 20 by adding an extension from the lever and around the spout as suggested by the office action completely changes the way the lever of the McNabb apparatus is secured. It is therefore an improper modification of the reference.

Even if the teachings of McNabb and Numbers were somehow combined as suggested in the office action, the office action fails to note where Numbers discloses a spout opening for

receiving a spout so that the locking member is rotatable about the spout. Referring to Figure 1 of Numbers reproduced above, the collar 24 is situated about the nozzle 13. The collar 24 is connected to a leg 22, which is fastened to the projection 19. To allow operation of the handle 14, the collar 24 must move up-and-down the nozzle 13. From the way the linkage comprising the leg 22 and projection are arranged, it does not appear that there could be any rotatable movement of the collar/leg about the nozzle 13.

As such, combining the teachings of McNabb and Numbers fails to disclose or suggest all of the claim limitations. Applicant thus respectfully submits that claims 1, 16 and 28, as well as the claims dependent thereon, are proper for allowance.

Claim 26 includes “second means for automatically locking the lever in response to movement of the lever from the open position to the closed position.” Claim 26 is presented in means-plus-function form as allowed under 35 USC 112, paragraph 6, which states, “such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.” Regarding the means for automatically locking the lever in response to movement of the lever, the specification teaches,

“Additionally, the locking member 120b provides an automatic locking feature. The notch 132 of the locking member 120b is shaped such that movement of the lever 116 from the open position towards the closed position closer to the spout 114 (as illustrated in Figure 7) causes the locking member 120b to move to the locked position. In the exemplary locking member 120b, this automatic locking feature is achieved via a stop portion 142 of the notch 132, which extends from the radiused portion 134 to an outer edge of the locking member 120b. When the lever 116 is moved from the open to the closed position, the stop portion 142 engages the lever 116, and the locking member 120b slides along the stop surface 142 as the lever 116 moves towards the spout 114 until it seats in the radiused portion 134 when the lever 116 reaches the closed position. The shape of the notch 132 facilitates the movement of the locking member 120b caused by the moving lever 116. As shown in Figure 5, the stop portion 142 of the notch 132 defines an angle θ with the longitudinal axis 140.

The angle θ is an obtuse angle when determined relative to the side of the locking member 120b where the spout opening 130 is located.”

Specification at paragraph [0027]. The lever engages the stop portion of the notch as it returns to the closed position, which is shaped such that movement of the lever causes the locking member to move to the locked position.

First, the function associated with the second means element is “automatically locking the lever in response to movement of the lever from the open position to the closed position.” Regarding the securing device 22 disclosed in McNabb, McNabb states, “a securing device 22 is provided for securing lever member 20 in response to a predetermined condition.” Col. 4, ll. 18-19. The office action does not identify where in McNabb “movement of the lever” is described as this predetermined condition.

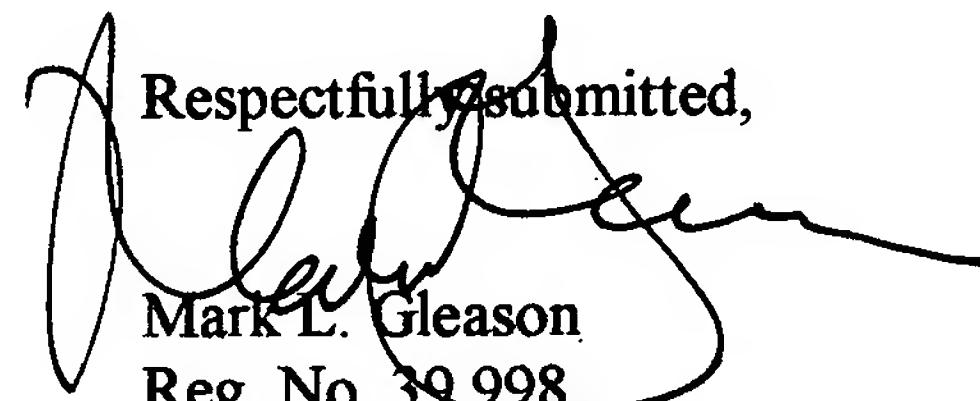
Moreover, to anticipate claim 26, McNabb must disclose structure that accomplishes the recited function corresponding to the means for performing the function that is recited in the claim – not just any means for performing the function. *See MPEP 2114.* McNabb teaches activating the securing device using “an electrically activatable solenoid 24.” Col. 4, l. 20. The office action fails to identify where McNabb discloses a stop portion of the locking device that engages the lever to accomplish the recited function.

Therefore, claim 26 is believed to be allowable over McNabb.

The office action rejected claims 15 and 18-21 under 35 USC 103(a) as allegedly being unpatentable over McNabb in view of Numbers and further in view of other references. These claims all ultimately depend from either claim 1 or claim 16, which are believed to be allowable for the reasons set forth above. For at least the same reasons, claim 15 and 18-21 are also allowable.

Conclusion

As evidenced by the foregoing amendments and remarks, Applicants have made a genuine effort to address each concern raised in the office action. As the amendment only cancels claims, and the remaining claims are all believed to be in condition for allowance, Applicant believes this response is proper under 37 CFR 1.116. The Examiner is invited to contact the undersigned attorney with any concerns or questions regarding the present application.


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